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IN THE
SUPREME COURT OF THE UNITED STATES

No. 572

October Term, 1967

CHARLES E. MOORMAN, and
EARLINE D. MOORMAN, his wife,

Petitioners,

v.

WILLIAM T. THOMAS
OLIVE R. THOMAS and
WILLIAM T. THOMAS, JR.

Respondents

MOTION FOR LEAVE TO FILE PETITION FOR REHEARING OUT OF TIME, AND PETITION FOR REHEARING.

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Petitioner

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Come now the Petitioners, Charles E. Moorman and Earline D. Moorman, his wife, and respectfully move the Court for leave to file the following petition for rehearing out of time and for the Court to consider the same, because Petitioners believe and represent to this Court that because of the opinion and judgment of the Supreme Court of Florida in the above cause to which opinion and judgment certiorari was sought in this Court, grave questions have arisen concerning the meaning of Section 205 of the Soldiers' and Sailors' Civil Relief Act of 1940 (Section 52s, 50 USCA, Appdx 9), and the intent of this Court in construing said Section 205 in the case of LeMaistre v.

Leffers, 333 U.S. 1, 92 L.ED. 429, 68 S. Ct. 372 (1948) with regard to whether or not tax deeds issued on the property of persons in military service under the protection of the Soldiers' and Sailors' Civil Relief Act prior to the expiration of allowed redemption time are void or voidable, as set out in the Petition for Rehearing thusly.

The Supreme Court of Florida, in its opinion and judgment in this cause ruled that under the opinion of this Court in the LeMaistre case, cit. supra, that said deeds are merely voidable, and that unless the veteran redeems the property in question within the redemption time as extended by the Soldiers' and Sailors' Civil Relief Act, that said deeds are valid. This decision overruled previous decisions of the Supreme Court of Florida and other courts of Florida to the effect that said tax deeds prematurely issued are void.

The Supreme Court of Utah, in the case of Day v. Jones, 112 Utah 286, 187 P2d 181, has held that a tax deed issued against the property of a soldier under the protection of the Act was prematurely issued, and being prematurely issued was void.

In California, the court ruled in Margraf v. County of Los Angeles, 301 P2d 490 (1956) that a tax deed issued on property of a soldier while the soldier was in military service under the protection of the Act was void. The California court understood this Court's opinion in the LeMaistre case to mean that deeds issued under the circumstances mentioned herein are void. (Page 11 of Petition for Writ of Certiorari filed herein.)

It is respectfully submitted that the courts of California and Utah on the one hand, and the Supreme Court of Florida on the other hand, have reached diametrically opposite and mutually repugnant conclusions as to effect of Section 205 of the Act on tax deeds issued while owners are under the protection of the Act, and also (the California Court) with regard to the meaning of this Court's opinion in the LeMaistre case.

It is respectfully submitted that because of these conflicting decisions there is now a great confusion and uncertainty throughout the nation with regard to administration in the State Courts of the important Federal rights guaranteed to many millions of persons who have served and who are serving and who will in the future serve in the American armed forces, which confusion and uncertainty this Honorable Court should resolve.

Petitioners aver that the interpretation of the Act and the meaning of this Court's decision in the LeMaistre case as stated by the California and Utah court is the one which is correct in accordance with logic and reason, and the one which should be restated by this Honorable Court.

Petitioners respectfully pray that for the reasons above specified, that this Honorable Court will grant Petitioners request for leave to file this Petition for rehearing out of time and will grant said Petition for rehearing and reconsider the above cause.

Respectfully,

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